

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Reclassification of license)
of Station KEXL(FM)) RM-10431
Norfolk, Nebraska)
)

ORDER TO SHOW CAUSE

Adopted: May 1, 2002

Released: May 17, 2002

Comment Date: June 17, 2002

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a petition for rule making filed by Harrison County Radio (“HCR”), requesting the allotment of FM Channel 293A at Woodbine, Iowa, as that community’s first local aural transmission service. Additionally, to accommodate the allotment of Channel 293A at Woodbine, consistent with the minimum distance separation requirements of the Commission’s Rules, HCR also requests the reclassification of Station KEXL(FM), Channel 294C, Norfolk, Nebraska, to specify operation on Channel 294C0.¹ Station KEXL currently operates on Channel 294C with an effective radiated power of 100 kilowatts at 313 meters height above average terrain (“HAAT”), which is below the minimum Class C antenna height of 450 meters HAAT. HCR avers that as Station KEXL is operating below minimum Class C standards, it is subject to reclassification as a Class C0 facility pursuant to the Second Report and Order in MM Docket No. 98-93, 15 FCC Rcd 21649 (2000),² and as set forth in Section 1.420(g), note 2, and Section 73.3574, note 4, of the Commission’s Rules.

2. Pursuant to the reclassification procedures set forth in the Second Report and Order, supra, and Section 1.420(g), note 2, the reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments. In instances where an initiating petition proposes amending the FM Table of Allotments in addition to the proposed reclassification of a Class C FM station, the Commission must issue an order to show cause as set forth in Section 73.3573, note 4. In such circumstances, a

¹ The distance between the required site for requested Channel 293A at Woodbine, Iowa, and Station KEXL’s licensed site at Norfolk, Nebraska, is 161.5 kilometers whereas a minimum distance of 165 kilometers is required in this instance.

² See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission’s Rules.

notice of proposed rule making will be issued only after the reclassification issue has been resolved. Therefore, in order to comply with the Commission's Class C0 reclassification procedures, we must issue this Order to Show Cause directed to WJAG, Inc., licensee of Station KEXL at Norfolk, Nebraska, to show cause why its authorization should not be modified to specify operation on Channel 294C0 in lieu of Channel 294C at Norfolk, Nebraska.

3. Section 316(a) of the Communications Act of 1934, as amended, permits the Commission to modify an authorization if such action is in the public interest. Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and afford at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules. See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act, 2 FCC Rcd 3327 (1987). In this instance, reclassification of Station KEXL as a Class C0 station at Norfolk, Nebraska, will accommodate HRC's request to allot Channel 293A to Woodbine, Iowa, as that community's first local aural service. Therefore, we believe HRC's request has sufficient public interest benefits and justifies the issuance of an order to show cause.

4. The license for Station KEXL (File No. BLH-19880502KA) at Norfolk, Nebraska, can be modified to Channel 294C0 at its currently authorized transmitter site located at coordinates 41-55-59 NL and 97-40-49 WL.

5. Pursuant to Section 1.87 of the Commission's Rules, WJAG, Inc., may, not later than June 17, 2002, file a written statement showing with particularity why its license (File No. BLH-19880502KA) should not be modified as proposed in this Order to Show Cause. The Commission may call on WJAG, Inc. to furnish additional information. If WJAG, Inc. raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, WJAG, Inc. will be deemed to have consented to the modification as proposed in this Order to Show Cause and a final Order will be issued by the Commission, if the channel modification is found to be in the public interest.

6. If WJAG, Inc. chooses to seek authority to modify its facilities, an acceptable application for a construction permit to increase Station KEXL's antenna height above 450 meters HAAT must be filed with the Commission within 180 days subsequent to the show cause response due date (June 17, 2002). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 293A at Woodbine, Iowa, will be dismissed. The present three-year construction period will be applicable should WJAG, Inc. obtain a construction permit for Channel 294C, as specified herein, under this procedure. If the construction is not completed as authorized, Station KEXL is

subject to reclassification automatically as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 293A at Woodbine, Iowa, may be refiled.

7. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this Order to Show Cause by Certified Mail, Return Receipt Requested, to WJAG, Inc., Radio Station KEXL, 309 Braasch Avenue, P.O. Box 789, Norfolk, NE 68701.

8. For further information concerning this proceeding, contact Nancy Joyner, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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Media Bureau